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AMENDED IN SENATE AUGUST 5, 2008

AMENDED IN SENATE JULY 1, 2008

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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1634

Introduced by Assembly Member Levine
(Principal coauthors: Senators Negrete McLeod and Padilla)
(Coauthors: Assembly Members Nava and Solorio)

February 23, 2007

An act to amend Sections ~~30804.7~~ 30804.5, 30804.7, 31751.5, and 31751.7 of, and to add Sections 30804.8 and 31751.8 to, the Food and Agricultural Code, relating to animals.

LEGISLATIVE COUNSEL'S DIGEST

AB 1634, as amended, Levine. Dogs and cats: nonspayed or unneutered: civil penalties.

Existing law requires dog and cat license tags to be issued for $\frac{1}{2}$ or less of the fee required for a dog or cat if a certificate is presented from a licensed veterinarian that the dog or cat has been spayed or neutered.

This bill would instead require those tags to be issued for: (1) $\frac{3}{4}$ or less of the fee if a dog or cat has been implanted with a microchip to positively identify the animal, its owner, and the owner's contact information, (2) $\frac{1}{2}$ or less of the fee if a certificate is presented from a licensed veterinarian that the dog or cat has been spayed or neutered, and (3) $\frac{1}{4}$ or less of the fee if a certificate is presented from a licensed veterinarian that the dog or cat has been spayed or neutered and has been implanted with a microchip that may be used to positively identify the dog or cat, its owner, and the owner's contact information.

Existing law regulates spay, neuter, and breeding programs for animals. Existing law requires the owner of a nonspayed or unneutered dog or cat that is impounded by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society to be fined \$35 on the first occurrence, \$50 on the 2nd occurrence, and \$100 for the 3rd or subsequent occurrence.

This bill would increase the above fines for a nonspayed or unneutered dog to \$50 for the first occurrence, \$100 *and microchipping of the dog at the owner's expense* for the 2nd occurrence, and would require spaying or neutering of the dog at the owner's expense on the 3rd occurrence. The bill would increase the above fines for a nonspayed or unneutered cat to \$50 *and microchipping of the cat at the owner's expense* on the first occurrence, and would require spaying or neutering of the cat at the owner's expense on the 2nd occurrence. *The bill would also require written information about the availability of spaying and neutering services, and the civil penalties, to be provided to the dog or cat's owner at the time a citation is issued.*

This bill would also provide that ~~the owner of a nonspayed or unneutered dog or cat that is the subject of a complaint to a local animal control agency~~ *a person who owns or possesses either an unlicensed, or an intact but licensed, dog or cat within California, as specified,* may be cited and, if cited, shall pay a civil penalty to the local animal control agency within 30 days. ~~It.~~ *The dog or cat would be subject to microchipping, for a dog on the 2nd occurrence, and for a cat on the*

first occurrence, at the owner's expense. By increasing the enforcement responsibility of local government agencies, the bill would create a state-mandated local program. The bill would require a local animal control agency to waive the civil penalty if, within 14-business calendar days of the citation, the pet's owner presents written proof from a licensed veterinarian that the dog or cat was spayed or neutered. The bill would create specified exemptions from these provisions for dogs and cats that are in poor health or are in California temporarily.

By increasing the enforcement responsibility of local agencies, this bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. This act shall be known and may be cited as the*
2 *California Responsible Pet Ownership Act.*

3 *SEC. 2. Section 30804.5 of the Food and Agricultural Code is*
4 *amended to read:*

5 30804.5. Whenever dog license tags are issued pursuant to this
6 division, any such tag shall be issued ~~for one-half or less of the~~
7 ~~fee required for a dog, if a certificate is presented from a licensed~~
8 ~~veterinarian that the dog has been spayed or neutered.~~ *as follows:*

9 (a) *For three-fourths or less of the fee required for a dog, if the*
10 *dog has been implanted with a microchip that can be used to*
11 *positively identify the dog, its owner, and the owner's contact*
12 *information.*

13 (b) *For one-half or less of the fee required for a dog, if a*
14 *certificate is presented from a licensed veterinarian that the dog*
15 *has been spayed or neutered.*

16 (c) *For one-fourth or less of the fee required for a dog, if a*
17 *certificate is presented from a licensed veterinarian that the dog*
18 *has been spayed or neutered, and the dog has been implanted with*
19 *a microchip that can be used to positively identify the dog, its*
20 *owner, and the owner's contact information.*

1 ~~SECTION 1.~~

2 ~~SEC. 3.~~ Section 30804.7 of the Food and Agricultural Code is
3 amended to read:

4 30804.7. (a) The owner of a nonspayed or unneutered dog that
5 is impounded once by a city or county animal control agency or
6 shelter, society for the prevention of cruelty to animals, or humane
7 society, shall be fined fifty dollars (\$50) on the first ~~occurrence~~
8 ~~and one hundred dollars (\$100) on the second occurrence.~~
9 *occurrence. On the second occurrence, the owner shall be fined*
10 *one hundred dollars (\$100) and the dog shall be microchipped,*
11 *with the owner paying the cost of the procedure. On the third*
12 *occurrence, the dog shall be spayed or neutered, with the owner*
13 *paying the cost of the procedure. These fines are for nonspayed*
14 *or unneutered impounded animals only, and are not in lieu of any*
15 *finer or impound fees imposed by any individual city, county,*
16 *public animal control agency or shelter, society for the prevention*
17 *of cruelty to animals shelter, or humane society shelter.*

18 (b) An animal control officer, humane officer, police officer,
19 peace officer, or any agency authorized to enforce the Penal Code
20 may write citations with a civil penalty stated in an amount
21 corresponding to the violation as provided in subdivision (a). *At*
22 *the time that a citation is issued, the animal control officer, humane*
23 *officer, police officer, peace officer, or any agency authorized to*
24 *enforce the Penal Code shall provide the owner of the dog with*
25 *information regarding the availability of spaying and neutering*
26 *services, as well as written notification of the civil penalty for a*
27 *second citation for the same dog, including microchipping of the*
28 *dog with the owner paying the cost of the procedure, and the civil*
29 *penalty for a third citation for the same dog, including the spaying*
30 *or neutering of the dog with the owner paying the cost of the*
31 *procedure. The fines shall be paid to the local municipality or*
32 *public animal control agency or shelter, society for the prevention*
33 *of cruelty to animals shelter, or humane society shelter. Any funds*
34 *collected under this section shall be expended for the purpose of*
35 *humane education, programs for low-cost spaying and neutering*
36 *of dogs, and any additional costs incurred by the public animal*
37 *control agency or shelter, society for the prevention of cruelty to*
38 *animals shelter, humane society shelter, or rescue group in the*
39 *administration of the requirements of this division. The city or*
40 *county animal control agency or shelter, society for the prevention*

1 *of cruelty to animals, or humane society shall waive the civil*
2 *penalty if, within 14 calendar days of the citation, the owner of*
3 *the dog presents written proof from a licensed veterinarian that*
4 *the dog was spayed or neutered.*

5 (c) This section applies to each county and cities within each
6 county, regardless of population.

7 (d) No city or county, society for the prevention of cruelty to
8 animals, or humane society is subject to any civil action by the
9 owner of a dog that is spayed or neutered in accordance with this
10 section.

11 (e) *If an owner found in violation of subdivision (a) voluntarily*
12 *elects to have the nonspayed or unneutered dog microchipped, a*
13 *city or county animal control agency or shelter, society for the*
14 *prevention of cruelty to animals, or humane society shall waive*
15 *no less than thirty dollars (\$30) and may waive all of the*
16 *corresponding fifty dollar (\$50) fine.*

17 (f) Any dog owner who is not a resident of California shall be
18 exempted from this section if the owner provides proof, as
19 determined by the local jurisdiction or its authorized local animal
20 control agency, that the dog is temporarily in California for
21 training, showing, or any other lawful reason.

22 (g) A dog shall not be required to be microchipped if its owner
23 provides a letter from a California licensed veterinarian stating
24 that due to age, poor health, or illness, it is unsafe to microchip
25 the animal. The letter shall include the veterinarian's license
26 number, the name of the owner, a description of the dog in
27 question, and, if this information is available, the duration of the
28 condition of the dog, and the date by which the dog may be safely
29 microchipped.

30 (h) A dog shall not be required to be spayed or neutered if its
31 owner provides a letter from a California licensed veterinarian
32 stating that due to age, poor health, or illness, it is unsafe to spay
33 or neuter the animal. The letter shall include the veterinarian's
34 license number, the name of the owner, a description of the dog
35 in question, and, if this information is available, the duration of
36 the condition of the dog, and the date by which the dog may be
37 safely spayed or neutered.

38 ~~SEC. 2.~~

39 SEC. 4. Section 30804.8 is added to the Food and Agricultural
40 Code, to read:

1 30804.8. (a) ~~The owner of a nonspayed or unneutered dog that~~
2 ~~is the subject of a complaint.~~ *A person who owns or possesses*
3 *within the state any dog that is not licensed or is improperly*
4 *licensed, as required by law, and that has not been spayed or*
5 *neutered may be cited and, if cited, shall pay a civil penalty as*
6 *provided in this section. A person who owns or possesses within*
7 *the state any intact dog that is properly licensed, as required by*
8 *law, but whose dog is at large may be cited, and, if cited, shall*
9 *pay a civil penalty as provided in this section.* This civil penalty
10 shall be in addition to any fine, fee, or penalty imposed under any
11 other provision of law or local ordinance.

12 (b) At the time that the citation is issued, the local animal control
13 agency shall provide the owner of the dog with information
14 regarding the availability of spaying and neutering services *as well*
15 *as written notification of the civil penalty for a second citation for*
16 *the same dog, including microchipping of the dog with the owner*
17 *paying the cost of the procedure, and a civil penalty for the third*
18 *citation for the same dog, including the spaying or neutering of*
19 *the dog by order of the local animal control agency, with the owner*
20 *paying the cost of the procedure.*

21 (c) The owner of the dog shall pay the civil penalty to the local
22 animal control agency within 30 ~~business~~ *calendar* days of the
23 citation. The local animal control agency shall waive the civil
24 penalty if, within 14 ~~business~~ *calendar* days of the citation, the
25 owner of the dog presents written proof from a licensed veterinarian
26 that the dog was spayed or neutered.

27 (d) The civil penalties shall be as follows:

28 (1) On the first occurrence, fifty dollars (\$50).

29 (2) On the second occurrence for the same dog, one hundred
30 dollars (\$100) *and the dog shall be microchipped, with the owner*
31 *paying the cost of the procedure.*

32 (3) On the third occurrence for the same dog, the spaying or
33 neutering of the dog by order of the local animal control agency,
34 with the owner paying the cost of the procedure.

35 (e) As used in this section, the following terms apply:

36 (2)

37 (1) ~~“Complaint” means an oral or written complaint to a local~~
38 ~~animal control agency that alleges that the dog or the owner of the~~
39 ~~dog has violated this division, any other provision of state law that~~
40 ~~relates to dogs, or a local animal control ordinance. “Complaint”~~

1 also means the observation by an employee or officer of a local
2 animal control agency of behavior by a dog or the owner of a dog
3 that violates this division, any other provision of state law that
4 relates to dogs, or a local animal control ordinance. "Complaint"
5 shall not include an allegation of excessive noise or barking.

6 (1) "Local animal control agency" means any city or county
7 animal control agency or other entity responsible for enforcing
8 animal-related laws or local animal control ordinances.

9 ~~(3)~~

10 (2) "Spay" and "neuter" mean any procedure performed by a
11 duly licensed veterinarian that permanently sterilizes a dog and
12 makes it incapable of reproduction.

13 *(f) If an owner found in violation of subdivision (a) voluntarily*
14 *elects to have the nonspayed or unneutered dog microchipped, a*
15 *local animal control agency shall waive no less than thirty dollars*
16 *(\$30) and may waive all of the corresponding fifty dollar (\$50)*
17 *fine.*

18 *(g) Any dog owner who is not a resident of California shall be*
19 *exempted from this section if the owner provides proof, as*
20 *determined by the local jurisdiction or its authorized local animal*
21 *control agency, that the dog is temporarily in California for*
22 *training, showing, or any other lawful reason.*

23 *(h) A dog shall not be required to be microchipped if its owner*
24 *provides a letter from a California licensed veterinarian stating*
25 *that due to age, poor health, or illness, it is unsafe to microchip*
26 *the animal. The letter shall include the veterinarian's license*
27 *number, the name of the owner, a description of the dog in*
28 *question, and, if this information is available, the duration of the*
29 *condition of the dog, and the date by which the dog may be safely*
30 *microchipped.*

31 *(i) A dog shall not be required to be spayed or neutered if its*
32 *owner provides a letter from a licensed California veterinarian*
33 *stating that due to age, poor health, or illness, it is unsafe to spay*
34 *or neuter the animal. The letter shall include the veterinarian's*
35 *license number, the name of the owner, a description of the dog*
36 *in question, and, if this information is available, the duration of*
37 *the condition of the dog, and the date by which the dog may be*
38 *safely spayed or neutered.*

39 ~~(f)~~

(j) This section shall not preclude any city or county from adopting a local ordinance that is more restrictive or imposes higher civil penalties.

SEC. 5. Section 31751.5 of the Food and Agricultural Code is amended to read:

31751.5. Whenever a city or county requires cat license tags, any such tag shall be issued ~~for one-half or less of the fee required for a cat, if a certificate is presented from a licensed veterinarian that the cat has been spayed or neutered.~~ *as follows:*

(a) *For three-fourths or less of the fee required for a cat, if the cat has been implanted with a microchip that can be used to positively identify the cat, its owner, and the owner's contact information.*

(b) *For one-half or less of the fee required for a cat, if a certificate is presented from a licensed veterinarian that the cat has been spayed or neutered.*

(c) *For one-fourth or less of the fee required for a cat, if a certificate is presented from a licensed veterinarian that the cat has been spayed or neutered, and the cat has been implanted with a microchip that can be used to positively identify the cat, its owner, and the owner's contact information.*

~~SEC. 3.~~

SEC. 6. Section 31751.7 of the Food and Agricultural Code is amended to read:

31751.7. (a) The owner of a nonspayed or unneutered cat that is impounded once by a city or county animal control agency or shelter, society for the prevention of cruelty to animals, or humane society, shall be fined fifty dollars (\$50) on the first occurrence, *and the cat shall be microchipped, with the owner paying the cost of the procedure.* On the second occurrence, the cat shall be spayed or neutered, with the owner paying the cost of the procedure. These fines are for nonspayed or unneutered impounded animals only, and are not in lieu of any fines or impound fees imposed by any individual city, county, public animal control agency or shelter, society for the prevention of cruelty to animals shelter, or humane society shelter.

(b) An animal control officer, humane officer, police officer, peace officer, or any agency authorized to enforce the Penal Code may write citations with a civil penalty stated in an amount corresponding to the violation as provided in subdivision (a). *At*

1 *the time that the citation is issued, the animal control officer,*
2 *humane officer, police officer, peace officer, or any agency*
3 *authorized to enforce the Penal Code shall provide the owner of*
4 *the cat with information regarding the availability of spaying and*
5 *neutering services, as well as written notification that the civil*
6 *penalty for the second citation for the same cat shall be the spaying*
7 *or neutering of the cat by order of the local animal control agency,*
8 *with the owner paying the cost of the procedure. The fines shall*
9 *be paid to the local municipality or public animal control agency*
10 *or shelter, society for the prevention of cruelty to animals shelter,*
11 *or humane society shelter. Any funds collected under this section*
12 *shall be expended for the purpose of humane education, programs*
13 *for low-cost spaying and neutering of cats, and any additional costs*
14 *incurred by the animal shelter in the administration of the*
15 *requirements of this division. The city or county animal control*
16 *agency or shelter, society for the prevention of cruelty to animals,*
17 *or humane society shall waive the civil penalty if, within 14*
18 *calendar days of the citation, the owner of the cat presents written*
19 *proof from a licensed veterinarian that the cat was spayed or*
20 *neutered.*

21 (c) Local ordinances concerning the adoption or placement
22 procedures of any public animal control agency or shelter, society
23 for the prevention of cruelty to animals shelter, humane society
24 shelter, or rescue group shall be at least as restrictive as this
25 division.

26 (d) This section applies to each county and cities within each
27 county, regardless of population.

28 (e) No city or county, society for the prevention of cruelty to
29 animals, or humane society is subject to any civil action by the
30 owner of a cat that is spayed or neutered in accordance with this
31 section.

32 (f) *Any cat owner who is not a resident of California shall be*
33 *exempted from this section if the owner provides proof, as*
34 *determined by the local jurisdiction or its authorized local animal*
35 *control agency, that the cat is temporarily in California for*
36 *training, showing, or any other lawful reason.*

37 (g) *A cat shall not be required to be microchipped if its owner*
38 *provides a letter from a California licensed veterinarian stating*
39 *that due to age, poor health, or illness, it is unsafe to microchip*
40 *the animal. The letter shall include the veterinarian's license*

1 *number, the name of the owner, a description of the cat in question,*
2 *and, if this information is available, the duration of the condition*
3 *of the cat, and the date by which the cat may be safely*
4 *microchipped.*

5 *(h) A cat shall not be required to be spayed or neutered if its*
6 *owner provides a letter from a California licensed veterinarian*
7 *stating that due to age, poor health, or illness, it is unsafe to spay*
8 *or neuter the animal. The letter shall include the veterinarian's*
9 *license number, the name of the owner, a description of the cat in*
10 *question, and, if this information is available, the duration of the*
11 *condition of the cat, and the date by which the cat may be safely*
12 *spayed or neutered.*

13 ~~SEC. 4.~~

14 SEC. 7. Section 31751.8 is added to the Food and Agricultural
15 Code, to read:

16 31751.8. (a) ~~The owner of a nonspayed or unneutered cat that~~
17 ~~is the subject of a complaint~~ *A person who owns or possesses*
18 *within the state any cat that is not licensed as required by law and*
19 *that has not been spayed or neutered may be cited and, if cited,*
20 *shall pay a civil penalty as provided in this section. A person who*
21 *owns or possesses within the state any intact cat that is properly*
22 *licensed, as required by law, but whose cat is at large may be cited*
23 *and, if cited, shall pay a civil penalty as provided in this section.*
24 *This civil penalty shall be in addition to any fine, fee, or penalty*
25 *imposed under any other provision of law or local ordinance.*

26 (b) *At the time that the citation is issued, the local animal control*
27 *agency shall provide the owner of the cat with information*
28 *regarding the availability of spaying and neutering services, as*
29 *well as written notification that the civil penalty for the second*
30 *citation for the same cat shall be the spaying or neutering of the*
31 *cat by order of the local animal control agency, with the owner*
32 *paying the cost of the procedure.*

33 (c) *The owner of the cat shall pay the civil penalty to the local*
34 *animal control agency within 30-business calendar days of the*
35 *citation. The local animal control agency shall waive the civil*
36 *penalty if, within 14-business calendar days of the citation, the*
37 *owner of the cat presents written proof from a licensed veterinarian*
38 *that the cat was spayed or neutered.*

39 (d) *The civil penalties shall be as follows:*

1 (1) On the first occurrence, fifty dollars (\$50) *and the cat shall*
2 *be microchipped, with the owner paying the cost of the procedure.*

3 (2) On the second occurrence for the same cat, the spaying or
4 neutering of the cat by order of the local animal control agency,
5 with the owner paying the cost of the procedure.

6 (e) As used in this section, the following terms apply:

7 ~~(1) “Complaint” means an oral or written complaint to a local~~
8 ~~animal control agency that alleges that the cat or the owner of the~~
9 ~~cat has violated this division, any other provision of state law that~~
10 ~~relates to cats, or a local animal control ordinance. “Complaint”~~
11 ~~also means the observation by an employee or officer of a local~~
12 ~~animal control agency of behavior by a cat or the owner of a cat~~
13 ~~that violates this division, any other provision of state law that~~
14 ~~relates to cats, or a local animal control ordinance. “Complaint”~~
15 ~~shall not include an allegation of excessive noise.~~

16 ~~(2)~~

17 (1) “Local animal control agency” means any city or county
18 animal control agency or other entity responsible for enforcing
19 animal-related laws or local animal control ordinances.

20 ~~(3)~~

21 (2) “Spay” and “neuter” mean any procedure performed by a
22 licensed veterinarian that permanently sterilizes a cat and makes
23 it incapable of reproduction.

24 (f) *Any cat owner who is not a resident of California shall be*
25 *exempted from this section if the owner provides proof, as*
26 *determined by the local jurisdiction or its authorized local animal*
27 *control agency, that the cat is temporarily in California for*
28 *training, showing, or any other lawful reason.*

29 (g) *A cat shall not be required to be microchipped if its owner*
30 *provides a letter from a California licensed veterinarian stating*
31 *that due to age, poor health, or illness, it is unsafe to microchip*
32 *the animal. The letter shall include the veterinarian’s license*
33 *number, the name of the owner, a description of the cat in question,*
34 *and, if this information is available, the duration of the condition*
35 *of the cat, and the date by which the cat may be safely*
36 *microchipped or spayed or neutered.*

37 (h) *A cat shall not be required to be spayed or neutered if its*
38 *owner provides a letter from a California licensed veterinarian*
39 *stating that due to age, poor health, or illness, it is unsafe to spay*
40 *or neuter the animal. The letter shall include the veterinarian’s*

1 *license number, the name of the owner, a description of the cat in*
2 *question, and, if the information is available, the duration of the*
3 *condition of the cat, and the date by which the cat may be safely*
4 *spayed or neutered.*

5 (f)

6 (i) This section shall not preclude any city or county from
7 adopting a local ordinance that is more restrictive or imposes higher
8 civil penalties.

9 ~~SEC. 5.~~

10 SEC. 8. No reimbursement is required by this act pursuant to
11 Section 6 of Article XIII B of the California Constitution because
12 a local agency or school district has the authority to levy service
13 charges, fees, or assessments sufficient to pay for the program or
14 level of service mandated by this act, within the meaning of Section
15 17556 of the Government Code.